

Attorneys for Plaintiff Steven Kassel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEVEN KASSEL

Plaintiff

V.

UNITED STATES OF AMERICA

Defendants

CROSS-RELATED ACTION

CASE NO.: 3:06-cv-03273 SC

PLAINTIFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having considered all of the evidence admitted and argument offered, the Court hereby finds the following:

1 The United States (hereinafter referred to as the “Government”) failed to present sufficient admissible evidence to establish that the Plaintiff Steven Kassel organized or assisted in the organization of a partnership, entity, plan, or arrangement OR that he participated directly or indirectly in the sale thereof.

1 2. The Government failed to present sufficient admissible evidence to establish that
2 Mr. Kassel made or furnished or caused another to make or furnish false statements regarding the
3 allow ability of any deduction or credit, or excludability of income by participating in any such
4 plan;

5 3. The Government failed to present sufficient admissible evidence to establish
6 that Mr. Kassel knew or should have known that any statements made were false to a material
7 matter; and

8 4. The Government failed to present sufficient admissible evidence to establish
9 that Mr. Kassel was not involved in any overvaluation of a tax deduction or an exclusion from
10 income;

11 5. The Government failed to present sufficient admissible evidence to establish
12 that Mr. Kassel is liable under IRC § 6700;

13 6. That Mr. Kassel paid fifteen percent of the assessed penalty, properly requested
14 a refund of said payment and filed the instant complaint in a timely manner such that he
15 preserved his right to a refund of said payment; AND

16 7. Due to the foregoing findings, this Court concludes as a matter of law, that the
17 Plaintiff Steven Kassel is entitled to a full refund of the monies paid to the I.R.S. and is not
18 liable under section 6700 for any of the acts alleged in the Government's Counter Claim.
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